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International Convention for the Protection of All Persons from Enforced Disappearance

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Committee on Enforced Disappearances
Sixth session

Summary record (partial)* of the 86th meeting**
Held at the Palais Wilson, Geneva, on Thursday, 20 March 2014, at 3 p.m.

Chairperson: Mr. Decaux

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* No summary record was prepared for the rest of the meeting.
** No summary record was issued for the 85th meeting.

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The meeting was called to order at 3.10 p.m.

Meeting with Member States of the United Nations

1. **The Chairperson** invited the representatives of the States Members of the United Nations to take the floor.

2. **Mr. Gómez Robledo** (Mexico) said that Mexico was well aware of the seriousness of the crime of enforced disappearance and the need to amend the Criminal Code of Mexico to bring it fully into line with the Convention. He would be counting on the Committee for help in doing so, and on the determination of a new generation of Mexican lawyers and judges. He had developed a training programme for judges in cooperation with the Secretary General of The Hague Academy of International Law. He strongly encouraged the Committee to establish regular contacts with the members of the judiciary system in the 31 Mexican states and the federal district. Mexico eagerly awaited the recommendations of the Committee. The recommendations made by the Working Group on Enforced or Involuntary Disappearances following its visit in 2001 had been a starting point for the drafting of the initial report of Mexico.

3. Mexico had come down in favour of the human rights treaty body strengthening process at the General Assembly in the hope that bodies such as the Committee on Enforced Disappearances would have the resources necessary to fulfil their mandate. Aware that some Member States were in need of assistance and of its duty to show solidarity, it had offered to take part in the technical assistance activities of the Office of the United Nations High Commissioner for Human Rights (OHCHR).

4. He encouraged the Committee to strengthen its working methods and apply best practices so as to avoid a backlog of work. He urged it to take regional bodies like the Inter-American Commission on Human Rights as a model when it made general recommendations. Turning to the "proliferation" of human rights treaty bodies and courts, he said that their increase in number should not lead to the fragmentation of international law.

5. **Ms. Gobbi** (Argentina) said that the campaign against enforced disappearances had been launched in her country nearly 40 years ago by the mothers, fathers and close relations of missing persons. Argentina had been the second State, after Albania, to ratify the Convention. The executive, legislative and judicial branches of government had removed every legal obstacle to identifying and convicting perpetrators of crimes against humanity such as enforced disappearance.

6. Argentina was a party to the Inter-American Convention on Forced Disappearance of Persons, which had constitutional rank, and enforced disappearance was covered under the Argentine Criminal Code. The Ministry of Justice and Human Rights had been carrying out a programme to assist victims and the Truth and Justice Programme. She drew attention to the adoption of the Protection of Personal Data Act, No. 25326, and the establishment of various bodies, including the Commission for the Right to an Identity, the National Commission on the Enforced Disappearance of Persons and the National Genetic Databank.

7. She held up as examples the work of the Dr. Fernando Ulloa Assistance Centre for Victims of Human Rights Violations and two programmes under which rewards were offered for information that helped to trace persons who had been abducted or locate perpetrators of acts of State terrorism on the run.

8. Argentina was actively involved in the campaign for universal ratification of the Convention through dialogue with friendly countries throughout the world. It encouraged States parties that had not yet done so to recognize the competence of the Committee to receive and consider communications submitted by or on behalf of individuals within its

jurisdiction. It was in favour of increasing the Committee's resources in proportion to the increase in the number of States parties.

9. Turning to the issue of military justice, she said that the former code of military justice had been abolished in 2009 and that the Criminal Code and Code of Criminal Procedure had been amended so that ordinary courts were competent to try cases of offences committed by the military.

10. **Mr. Corcuera Cabezut** said that the dialogue between the Committee and the representatives of States parties made it possible to get a better understanding of how to go about strengthening the Convention and improving the work of the Committee with a view to obtaining results in the campaign against enforced disappearance. He invited States to welcome the increase in the number of international bodies responsible for enforcing standards, to help in the efforts to make the Convention universal and to encourage States that had not yet done so to recognize the Committee's competence under articles 31 and 32 of the Convention.

11. **Mr. Tiemounou** (Burkina Faso) said that Burkina Faso had carried out activities to promote the Convention and awaited the consideration of its initial report on the implementation of the Convention, which would shortly be submitted to the Council of Ministers, in order to follow up on the guidance of the Committee.

12. **Mr. Huhl** welcomed the fact that a number of African and Latin American countries had ratified the Convention, but stressed that much remained to be done to promote its ratification in other parts of the world such as Asia.

13. **Ms. Pereira Farina** (Paraguay) said that Paraguay had submitted its report to the Committee in August 2013 and had currently met its obligations towards all treaty bodies, which was a great achievement for the country. A national mechanism was established for the implementation of the decisions of international authorities and recommendations put forward by treaty bodies, the Executive Inter-Institutional Commission for Compliance with International Judgements. The national mechanism for the prevention of torture was fully operational and was an example of best practices in the region. Such a show of political will did not always make up for the lack of resources, which was why cooperation with States with more experience in the area was very important. Paraguay was awaiting the list of issues from the Committee and would provide responses in due course. It would be represented by a delegation at the September 2014 session.

14. **The Chairperson** said that the Committee had three priorities. The first was to uphold international human rights law, which provided States with legal certainty and victims with safeguards of their rights. The Committee must thus cooperate closely with and complement the work of other competent bodies of the United Nations in that area and fill gaps in the protection of rights. The second priority was to ensure that the Convention was effective. The Convention presented various means of prevention, protection and promotion such as the procedures provided for under articles 30 and 33. States, non-governmental organizations (NGOs) and civil society must fully cooperate with the Committee for those means to be implemented properly. The third priority, to ensure that the Committee was effective, required the collaboration of States, which must be focused on results and based on dialogue, in the context of the treaty body strengthening process.

The meeting was suspended at 3.55 p.m. and resumed at 4.05 p.m.

Meeting with non-governmental organizations and other stakeholders

15. **The Chairperson** reiterated just how important exchanges with non-governmental organizations (NGOs) were to the work of the Committee, as the effectiveness of most of

the tools available to the Committee depended on the information that NGOs passed on to it.

16. **Ms. Crottaz** (Alkarama) took note of the document on the relationship of the Committee on Enforced Disappearances with civil society actors (CED/C/3), which incorporated a number of points that had been raised by NGOs, and expressed the hope that it would be published on the Committee's website. She encouraged the Committee to post on its website information on the way in which it would handle cases of reprisals and the contact details for the rapporteur on reprisals, and to put in place a follow-up process for carrying out the recommendations concerning reprisals. In addition, she urged the Committee to draw up transparent, detailed guidelines on the procedures for drafting general comments, to ensure that NGO briefings were held close to the date of the consideration of the relevant State party report so that those who had travelled to Geneva would not have to prolong their stay and to see to it that OHCHR provided for webcasts of the Committee's public meetings. Regarding overdue reports, such as those from Iraq and Tunisia, she wished to know what steps the Committee had envisaged taking to ensure that those reports were submitted and examined as soon as possible and that future reports were submitted on time. She suggested that the Committee should urge Algeria, the Comoros and Lebanon to accede to the Convention, since those countries had accepted the recommendations to do so during the universal periodic review.

17. **The Chairperson** said that the Convention provided for the possibility of taking steps to protect those who cooperated with the Committee. There was a need to ensure that cases of reprisals could easily be reported to the rapporteur. The Committee took every contribution to its general comments into account and would set aside the time to consult with all stakeholders. The Committee was grateful for the help with webcasting that it had received the year before and regretted that in 2014 OHCHR had been unable to provide for webcasts, which were important for awareness-raising and for the record.

18. **Ms. García Guevara** (Centro Diocesano para los Derechos Humanos Fray Juan de Larios) wondered whether a date for the consideration of the report of Mexico had been set and suggested that the Committee should urge the State party, which had not yet done so, to declare that it recognized the competence of the Committee to consider communications from or on behalf of individuals, in view of the prevalence of enforced disappearances in the country.

19. **The Chairperson** said that Mexico had submitted its report, which was posted on the Committee's website in early March 2014. The list of issues would be adopted at the seventh session of the Committee in September 2014 and the report would be considered at the eighth session in the spring of 2015. The Committee took pains to consult with civil society actors at different stages of its consideration of reports, both before and after the list of issues were drawn up. At the eighth session, a videoconference could be arranged to enable NGOs that could not be present to take part in the work of the Committee. Regarding articles 31 and 32, he again urged all States to recognize the competence of the Committee to receive and consider communications, whether they came from individuals or States.

20. **Ms. Nuño** (Centro de Derechos Humanos de las Mujeres) said she hoped that OHCHR field presences would play an active role in promoting ratification of the Convention. She wondered how the Committee intended to follow up on its public debate on military justice. It was a subject of prime importance in Latin America, and there was detailed case law on it throughout the region. If the Committee intended ultimately to draft a general comment on the subject, it would certainly be of use for it to coordinate its work with the work of the inter-American system for the sake of harmonization and in order to avoid duplication of efforts and redundancy.

21. **The Chairperson** said that several independent experts and other mandate holders were working to promote ratification of the Convention. That was likewise the case for OHCHR, which published a wealth of information on its website and also carried out many advocacy activities in the field through its country offices, which were referred to in its annual report. There was already widespread ratification in the Americas; efforts must now also be made on other continents. It was to be hoped that in 2014 the Convention would again be included among the instruments of which the Secretary-General called for ratification at the opening of the General Assembly.

22. He was well aware that Latin America had developed a large body of case law. The Committee did not intend to go over the same ground or even to draft a long document. Its objective was highly specific: to clear up any ambiguity. Under the Declaration on the Protection of All Persons from Enforced Disappearance and *jus cogens*, military courts were not competent to try cases of enforced disappearance; however, the issue had intentionally been passed over in silence when the Convention was drafted in order to reach a consensus. The Committee thus intended to let it be known very shortly that its view of the matter was the same as that of other authorities and that it endorsed the statements of the Working Group on Enforced or Involuntary Disappearances.

23. **Mr. Corcuera Cabezut** expressed his agreement with the Chairperson. At some point, the Committee would clearly have to voice an opinion on the amnesties that were admissible and those that were not, but to be effective a general comment on that subject would also have to be as clear and as concise as possible.

24. **Mr. Garcé García y Santos** said that military training was the main problem in Latin America. The countries of that region would be well advised to set up new military institutions, as Germany had done after 1945.

25. **Mr. Hazan** asked whether Mexican NGOs were in contact with the family members of victims of enforced disappearances from countries other than Mexico.

26. **Ms. García Guevara** (Centro Diocesano para los Derechos Humanos Fray Juan de Larios) said that NGOs were in contact with the families of migrant victims of enforced disappearances; she proposed that they could act as a liaison between those families and the Committee. She wished to know more about the specific forms of cooperation with the Committee.

27. **The Chairperson** urged NGOs to consult the document on the relationship of the Committee on Enforced Disappearances with civil society actors. In the interests of efficiency, he advised them to form a coalition to draft a joint shadow report that followed the structure of the report of the State party. Before the dialogue with the delegation of the State party, a private meeting with NGOs from the country, possibly via video link, could be arranged to transmit confidential information. The Committee would draw up the list of issues for Mexico in June, with approximately 25 questions, so that it could be translated in time for the seventh session. Non-governmental organizations would then need to submit their contributions by mid-June and focus on the highest priority concerns. They could then comment on the written replies to the list of issues that the State party should have submitted in the autumn. To get an idea of how the public meeting in March 2015 to consider the report of Mexico would unfold, NGOs could view the webcasts of meetings at previous sessions at which the reports of four other States parties had been considered.

28. On behalf of the entire Committee, he thanked the NGOs for the invaluable information they had provided and assured them that their proposals would be food for thought.

The discussion covered in the summary record ended at 4.55 p.m.